IN THE HIGH COURT OF BOMBAY AT GOA

MISCELLANEOUS CIVIL APPLICATION NO. 351 OF 2005
IN
ELECTION PETITION NO. 2 OF 2002

Shri Arvind Sriniwas Naik,
Flat No. T/5, Building
No.11B, Opposite
Sonali Building, Kamat
Estate, Caranzalem, Tonca, Goa. ... Applicant

IN

Chandrakant Uttam
Chodankar, s/o Uttam
Chodankar, aged 59 years,
married, r/o House No.581,
Guddem, Siolim,
Bardez, Goa. ... Petitioner.

Versus

1. Shri Dayanand Rayu
Mandrekar, s/o Rayu
Mandrekar, major in age,
married, r/o House No.353/6 B,
Oxel, Chopdem, Siolim,
Bardez, Goa,

2. Christopher Fonseca, major
in age, married, r/o
House No.60 Vale Gongurem,
Assagao, Bardez, Goa,

3. Pandharinath Vaman
Polle, major in age, r/o

House No.118-IA, "Trimurti Bhavan", Abbas Waddo, Canca, Bardez, Goa,

4. Francis Gregorio Fernandes, major in age, r/o Sodiem, Siolim, Bardez, Goa,

5. Gokuldas Surya Naik, s/o Surya Naik, major in age, r/o House No.694, Assagao, Badem, Bardez, Goa,

6. Albin Fernandes, major in age, r/o House No.203, Chawadi Vaddo, Marna, Siolim, Bardez, Goa,

7. Jawaharlal Henriques, major in age, r/o House No.161, RodriguesWaddo, Siolim, Bardez, Goa,

8. Sanjay Ganesh Narvenkar, s/o Ganesh Narvekar, major in age, r/o 223/A, Abbas Vaddo, Canca, Parra, Bardez, Goa,

9. Kalidas Vinayak Vernekar, s/o Vinayak Vernekar, major in age, r/o House No.476/7 Oxel, Siolim, Bardez, Goa,

10. Mangesh Kaskar, major in age, r/o Bandir Wada, Shappora, Anjuna,

Bardez, Goa. ... Respondents.

Mr. S. D. Lotlikar, Senior Advocate with Ms. K. Sambari, advocate for the applicant.

Mr. J. E. Coelho Pereira, Senior Advocate with Mr. S. Karpe, advocate for the original petitioner.

Mr. V. P. Thali, with Ms. G. Pednekar, advocates for the respondents.

CORAM : **N. A. BRITTO, J.**

DATE : **27th May, 2005.**

ORAL ORDER

Heard Mr. Lotlikar, the learned Senior Counsel on behalf of the applicant.

2. The applicant is an independent candidate contesting the Bye-Election to the Taleigao Assembly Constituency to be held on 2nd June, 2005. According to him, he came to know, through various newspapers that the final arguments in this petition as well as in the other petition were heard and the petition was fixed for final Judgment and Order today. According to the applicant, since Bye-elections to the five Assembly Constituencies are scheduled on 2nd June, 2005, the declaration of the results in this petition as well as in the other petition are likely to affect the voting trend on

2nd June, 2005. As per the applicant, even the Election Commission defers election results when a poll is scheduled.

3. Since the application was filed yesterday (26th May, 2005), no notice of the application was given either to the petitioner or to the respondents in the Election Petition. Mr. Thali, on behalf of the respondents, has no objection in case the prayer of the applicant is granted, but, Mr. Coelho Pereira, the learned Senior Counsel on behalf of the original petitioner has submitted that the date for Judgment was fixed on 5th May, 2005 and this petition is being decided by this Court as per the directions of the Hon'ble Supreme Court and time fixed has almost lapsed. Mr. Coelho Pereira submits that no provision has been quoted under which this application has been filed. As per Mr. Coelho Pereira, this application is a ploy by the respondent to further delay the result of the Election Petition.

4. In reply, it has been submitted by Mr. Lotlikar, the learned Senior Counsel, that delay in filing the application will make no difference.

5. Firstly, I must note that the applicant has no locus standi to move this application in an Election Petition to which he

is not a party. I am told that the petitioner is a member of the National Congress Party (NCP), while the respondent no.1 is a member of the Bharatiya Janata Party (BJP). I am at pains not to understand why the petitioner, who belongs to the NCP or the respondent no.1, who belongs to the BJP when both the said parties are also contesting the Bye-Elections, have not made a similar application. Hence, I am of the view that the contention of the applicant in paragraph 5 of the application, in the light of which the submission was also made by Mr. Lotlikar, the learned Senior Counsel for the applicant, has got no substance apart from the fact that the applicant, being not a party to the petition has no locus standi to make such application and that too belatedly.

6. Hence, the application is rejected.

N. A. BRITTO, J.

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